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CBIA CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

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Before the Committee on Labor and Public Employees
Hartford, CT
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Testifying in support of SB 1036 An Act Concerning Unemployment Compensation

Good afternoon Senator Winfield, Representative Tercyak, Senator Hwang, Representative Rutigliano and members of the Labor and Public Employees Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA), which represents more than 10,000 large and small companies throughout the state of Connecticut.

CBIA urges the committee to include the reforms found in HB 5851 in any unemployment compensation bill favorably reported out of the committee.

To cover unemployment costs stemming from the recession, Connecticut borrowed $1 billion in federal money—a debt that is solely the obligation of Connecticut businesses, and is not projected to be repaid until 2017.

For each year a state has not repaid its debt, the federal unemployment tax (FUTA) goes up by .3%. That means even businesses that never laid off a single employee during the recession have seen their unemployment taxes go up in the last five years. Connecticut pays the highest FUTA taxes in the nation - more than three times what the vast majority of states pay.

Increasing state unemployment taxes is not an option because it would put us at a further competitive disadvantage with our neighboring states. All of our neighboring states take in a similar amount of unemployment tax revenue as Connecticut, yet every one of these states either borrowed from the federal government later than Connecticut or already repaid their debt. In other worse, their unemployment trust funds were in better shape than ours before the recession started.

Why?

Each of our neighbors made hard choices in the past and embraced simple reforms that Connecticut has ignored. For example:

1. Require claimants to wait a week before receiving unemployment benefits. The federal government provides financial incentives for states to adopt a waiting week. Forty-one states have this requirement; Connecticut does not. Our Labor Department estimates this would save businesses $30 million a year.

2. Raise the minimum earnings to qualify for unemployment benefits to $2,000. An unemployment claimant in Connecticut need only earn $600 to qualify for benefits. This is the fourth lowest earnings requirement in the U.S. Thirty-two states/territories require between $2,000 and $5,000 in earnings.

3. Require claimants to post their resume online as a condition to receiving benefits after six consecutive weeks. Rhode Island recently instituted this reform, which was already a requirement in Alaska, Hawaii, and Wisconsin. Studies show this type of requirement gets unemployed individuals back to work an average of one week faster.

4. Base benefits on an employee's annual salary, rather than two highest quarters, to avoid unfairly rewarding seasonal workers. Unemployment benefits are based on earnings in the two highest of the last four calendar quarters. This creates inequities, as a seasonal worker making $30,000 over two quarters has the same benefits as a full-year employee earning $60,000 a year. This is why sixteen states base unemployment benefits off of a full year's salary.

5. Freeze the maximum weekly benefit rate for three years. The maximum benefit rate is allowed to increase by $18 every year. By freezing this for three years, the Labor Department projects we could save Connecticut employers as much as $10 million per year over the next 10 years.

I have attached a fully drafted bill that contains the reforms proposed in HB 5851.

We strongly support the reforms found in HB 5851, and believe any unemployment compensation bill favorably reported from this committee should contain these reforms.

Possible Title:

AN ACT PROMOTING UNEMPLOYMENT TRUST FUND SOLVENCY THROUGH COST-SAVING MODIFICATIONS TO THE UNEMPLOYMENT COMPENSATION STATUTES

Section 1. Subsection (a) of section 31-230 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective January 1, 2016)*:

(a) An individual's benefit year shall commence with the beginning of the week [with respect to which] following the week in which the individual has filed a valid initiating claim and shall continue through the Saturday of the fifty-first week following the week in which it commenced, provided no benefit year shall end until after the end of the third complete calendar quarter, plus the remainder of any uncompleted calendar week that began in such quarter, following the calendar quarter in which it commenced, and provided further, the benefit year of an individual who has filed a combined wage claim, as described in subsection (b) of section 31-255, shall be the benefit year prescribed by the law of the paying state. In no event shall a benefit year be established before the termination of an existing benefit year previously established under the provisions of this chapter. Except as provided in subsection (b) of this section, the base period of a benefit year shall be the first four of the five most recently completed calendar quarters prior to such benefit year, provided such quarters were not previously used to establish a prior valid benefit year and provided further, the base period with respect to a combined wage claim, as described in subsection (b) of section 31-255, shall be the base period of the paying state, except that for any individual who is eligible to receive or is receiving workers' compensation or who is properly absent from work under the terms of the employer's sick leave or disability leave policy, the base period shall be the first four of the five most recently worked quarters prior to such benefit year, provided such quarters were not previously used to establish a prior valid benefit year and provided further, the last most recently worked calendar quarter is no more than twelve calendar quarters prior to the date such individual makes an initiating claim. As used in this section, an initiating claim shall be deemed valid if the individual is unemployed and meets the requirements of subdivisions (1) and (3) of subsection (a) of section 31-235. The base period of an individual's benefit year shall include wages paid by any nonprofit organization electing reimbursement in lieu of contributions, or by the state and by any town, city or other political or governmental subdivision of or in this state or of any municipality to such person with respect to whom such employer is subject to the provisions of this chapter. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For purposes of this section, the term "previously uncovered services" means services that (1) were not employment, as defined in section 31-222, and were not services covered pursuant to section 31-223, at any time during the one-year period ending December 31, 1975; and (2) (A) are agricultural labor, as defined in subparagraph (H) of subdivision (1) of subsection (a) of section 31-222, or domestic service, as defined in

Comment [GE1]: Adds a one week waiting period for claimants prior to receiving benefits. 41 other states have this waiting period, and there are federal financial incentives for putting the waiting period in place at the state level. Labor department estimates this will save the trust fund $31 million dollars per year.

subparagraph (J) of subdivision (1) of subsection (a) of section 31-222, or (B) are services performed by an employee of this state or a political subdivision of this state, as provided in subparagraph (C) of subdivision (1) of subsection (a) of section 31-222, or by an employee of a nonprofit educational institution that is not an institution of higher education, as provided in subparagraph (E)(iii) of subdivision (1) of subsection (a) of section 31-222, except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

Sec. 2. Subsection (b) of section 31-231a of the general statutes is repealed and the following is substituted in lieu thereof *(Effective January 1, 2016)*:

(b) For an individual not included in subsection (a) of this section, the individual's total unemployment benefit rate for his or her benefit year commencing after September 30, 1967, shall be an amount equal to one [twenty-sixth] fifty-second, rounded to the next lower dollar, of the average of his or her total wages, as defined in subdivision (1) of subsection (b) of section 31-222, paid during [the two quarters of] his or her current benefit year's base period [in which such wages were highest] but not less than [fifteen] fifty dollars nor more than one hundred fifty-six dollars in any benefit year commencing on or after the first Sunday in July, 1982, nor more than sixty per cent rounded to the next lower dollar of the average wage of production and related workers in the state in any benefit year commencing on or after the first Sunday in October, 1983, and provided the maximum benefit rate in any benefit year commencing on or after the first Sunday in October, 1988, shall not increase more than eighteen dollars in any benefit year, and provided there shall be no increase in the maximum benefit rate in benefit years 2015, 2016 and 2017, such increase to be effective as of the first Sunday in October of such year. The average wage of production and related workers in the state shall be determined by the administrator, on or before August fifteenth annually, as of the year ended the previous June thirtieth to be effective during the benefit year commencing on or after the first Sunday of the following October and shall be so determined in accordance with the standards for the determination of average production wages established by the United States Department of Labor, Bureau of Labor Statistics.

Comment [GE2]: Technical changes to make statute gender neutral

Comment [GE3]: Changes highest two quarter wage averaging to four quarter averaging. Highest two quarter averaging unfairly rewards seasonal workers - using four quarters will result in seasonal workers being paid benefits based on their true average annual salary.

Comment [GE4]: See above comment

Comment [GE5]: This would change the minimum earnings an individual needed to qualify for benefits from $600 to $2,000. This number has not been increased since the statute was drafted in 1982. Connecticut has the fourth lowest earnings requirement in the country, with 31 states having a $2,000 or more requirement, 8 states of which have a $4,000 or more earnings requirement.

Comment [GE6]: This would freeze the maximum weekly benefit rate increases for a three year period of time. Labor department estimates this will save the trust fund approximately $10 million dollars per year.

Sec. 3. Subdivision (2) of subsection (a) of section 31-236 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective January 1, 2016)*:

(2) (A) If, in the opinion of the administrator, the individual has left suitable work voluntarily and without good cause attributable to the employer, until such individual has earned at least ten times such individual's benefit rate, provided whenever an individual

voluntarily leaves part-time employment under conditions that would render the individual ineligible for benefits, such individual's ineligibility shall be limited as provided in subsection (b) of this section, if applicable, and provided further, no individual shall be ineligible for benefits if the individual leaves suitable work (i) for good cause attributable to the employer, including leaving as a result of changes in conditions created by the individual's employer, (ii) to care for the individual's spouse, child, or parent with an illness or disability, as defined in subdivision [(16)] (17) of this subsection, (iii) due to the discontinuance of transportation, other than the individual's personally owned vehicle, used to get to and from work, provided no reasonable alternative transportation is available, (iv) to protect the individual, the individual's child, the individual's spouse or the individual's parent from becoming or remaining a victim of domestic violence, as defined in section 17b-112a, provided such individual has made reasonable efforts to preserve the employment, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under subparagraph (A)(iv) of this subdivision, (v) for a separation from employment that occurs on or after July 1, 2007, to accompany a spouse who is on active duty with the armed forces of the United States and is required to relocate by the armed forces, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under subparagraph (A)(v) of this subdivision, or (vi) to accompany such individual's spouse to a place from which it is impractical for such individual to commute due to a change in location of the spouse's employment, but the employer's account shall not be charged with respect to any voluntary leaving under subparagraph (A)(vi) of this subdivision; or (B) if, in the opinion of the administrator, the individual has been discharged or suspended for felonious conduct, conduct constituting larceny of property or service, the value of which exceeds twenty-five dollars, or larceny of currency, regardless of the value of such currency, wilful misconduct in the course of the individual's employment, or participation in an illegal strike, as determined by state or federal laws or regulations, until such individual has earned at least ten times the individual's benefit rate; provided an individual who (i) while on layoff from regular work, accepts other employment and leaves such other employment when recalled by the individual's former employer, (ii) leaves work that is outside the individual's regular apprenticeable trade to return to work in the individual's regular apprenticeable trade, (iii) has left work solely by reason of governmental regulation or statute, or (iv) leaves part-time work to accept full-time work, shall not be ineligible on account of such leaving and the employer's account shall not at any time be charged with respect to such separation, unless such employer has elected payments in lieu of contributions;

Comment [GE7]: Conforming change.

Sec. 4. Subdivisions (15) and (16) of subsection (a) of section 31-236 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective January 1, 2016)*:

(15) If the individual is a temporary employee of a temporary help service and the individual refuses to accept suitable employment when it is offered by such service upon

completion of an assignment until such individual has earned at least six times such individual's benefit rate; [and]

(16) If the administrator finds that an individual commencing a claim for benefits on or after the effective date of this section has failed to post his or her resume on an online employment exchange designated by the administrator and designed for employers and job seekers in the state, after the sixth consecutive week of collecting benefits under this chapter. The administrator may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this subdivision; and

Comment [GE8]: Requires benefit claimants to post their resume online as a condition of receiving unemployment benefits after the 6th consecutive week of unemployment benefits. Research has shown that individuals that participate in similar re-employment programs offered by states return to the workforce on average one week earlier - which led Rhode Island to recently adopt this new requirement. Alaska, Hawaii and Wisconsin also require unemployment benefit claimants to post their resumes online.

(17) For purposes of subparagraph (A)(ii) of subdivision (2) of this subsection, "illness or disability" means an illness or disability diagnosed by a health care provider that necessitates care for the ill or disabled person for a period of time longer than the employer is willing to grant leave, paid or otherwise, and "health care provider" means (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; (B) a podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (C) an advanced practice registered nurse, nurse practitioner, nurse midwife or clinical social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (D) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; (E) any medical practitioner from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; (F) a medical practitioner, in a practice enumerated in subparagraphs (A) to (E), inclusive, of this subdivision, who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or (G) such other health care provider as the Labor Commissioner approves, performing within the scope of the authorized practice. For purposes of subparagraph (B) of subdivision (2) of this subsection, "wilful misconduct" means deliberate misconduct in wilful disregard of the employer's interest, or a single knowing violation of a reasonable and uniformly enforced rule or policy of the employer, when reasonably applied, provided such violation is not a result of the employee's incompetence and provided further, in the case of absence from work, "wilful misconduct" means an employee must be absent without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances for three separate instances within a twelve-month period. Except with respect to tardiness, for purposes of subparagraph (B) of subdivision (2) of this subsection, each instance in which an employee is absent for one day or two consecutive days without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances constitutes a "separate instance". For purposes of subdivision (15) of this subsection, "temporary help service" means any person conducting a business that consists of employing individuals directly for the purpose of furnishing part-time or temporary help to

others; and "temporary employee" means an employee assigned to work for a client of a temporary help service.

Proposed Statement of Purpose:

To modify:

1. the unemployment compensation statutes to require claimants to wait one week for benefits,

2. change benefit calculations to four quarter averaging,

3. increase the minimum earnings needed to qualify for benefits,

4. put a three year freeze on increases to the maximum benefit rate, and

5. requiring claimants to post their resume online by the sixth consecutive week of receiving benefits.